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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,987

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Akio Kobayashi

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KRATZ, QUINTOS & HANSON, LLP  
1420 K Street, N.W.  
Suite 400  
WASHINGTON, DC 20005

EXAMINER

VILLECCO, JOHN M

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,987	<b>Applicant(s)</b> KOBAYASHI, AKIO	
	<b>Examiner</b> JOHN M. VILLECCO	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,7,8 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,7,8 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed April 24, 2009 have been fully considered but they are not persuasive.
2. Regarding applicant's first point (1) in their response, applicant argues that Ito (Japanese Publ. No. (JP 05-083625) fails to disclose the claimed "notifying the subject". However, the Examiner is interpreting the popping up of the flash when a still image is instructed (paragraph 0007) to be the "visually notifying a subject". In much the same way a flashing light would notify the subject, the popping up of a flash would also notify the subject.
3. As to applicant's second point (2), applicant argues that by modifying the flash of Ito to emit a light to notify a user of a still image capture during the moving image capture, one could not easily modify the flash to emit a flash for the still image capture. Firstly, providing for "special provisions" is not a requirement of an obviousness combination. An obviousness combination only requires that one of ordinary skill in the art could modify the invention based on the secondary reference. As applicant has pointed out ways in which this can be done, applicant admits that it could easily be modified. Secondly, applicant assumes that the Examiner's combination of Ito and Konno is directed toward modifying the flash of Ito to emit the light of Konno. However, the Konno reference was used to show a different way or an additional way of visually notifying a user of a still image capture. Thus, the Examiner's obviousness rejection was used to show a different way or additional way in which a user could

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be notified and that one of ordinary skill in the art could have easily replaced or included Ito's notification with Konno's notification.

4. With regard to applicant's third point (3), applicant argues that since Ito discloses that the flash is only used under certain photographing conditions, he fails to disclose "notifying a subject that a photographic operation of a still image is to be performed". However, the claim language does not state that the notification has to be done for every still image. Thus, if it is done for only one still image capture ever, it still meets the claim language. Furthermore, Ito is silent on what the "photographing conditions" are. It could be the capture of a still image.

5. Regarding applicant's fourth and fifth point (4) (5), applicant argues that the flash and movie light operation do not read on the claimed invention. The Examiner fails to see how the operation of the movie light for focusing has any impact on the combination of Ito and Konno. It is the light of Konno that is used as the notification in the combination.

6. As for the Konno reference, applicant argues that there is no disclosure of a half-press of the shutter button and argues that Figure 9 does not show a half-press and a full-press. However, one of ordinary skill in the art would recognize that the notations of SW1 and SW2 when used in conjunction with a single shutter button are notoriously well known to represent a half-press and a full-press of the single shutter button. Numerous prior art examples exist showing a single shutter button with SW1 and SW2 notations for a half-press and full-press. See U.S. Patent Nos. 5,231,446 (col. 8, line 61-col. 9, line 9), 5,598,242 (col. 5, lines 43-54), and 6,919,927 (col. 3, lines 14-30).

7. For the reasons stated above, the rejections from the previous office action will be repeated.

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***Claim Objections***

8. Claim 14 is objected to because of the following informalities:

- Claim 14 or dependent upon a cancelled claim (claim 5). For examination purposes it will be assume that claim 14 was supposed to depend on claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**10. Claim 1, 7, 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (Japanese Publ. No. 05-083625 A) in view of Konno (Japanese Publ. No. 06-175208 A).**

11. Regarding *claim 1*, Ito discloses a camera that is capable of capturing a still image during the capture of video image. More specifically and as it relates to the applicant's claims, Ito discloses a first notifying means (flash plate, 8; paragraph 0007) for visually notifying a subject that a photographic operation of a still image is to be performed when a release button (trigger switch, 6) is pushed during the photography of a moving image.

Ito however fails to specifically disclose that the first notifying means lights up or flashes when the release button is pressed half-way down. Konno, on the other hand, discloses that it is

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well known in the art to emit a light or blink an exposure of light upon the half-press of a shutter button during the capture of a still image. More specifically, Konno appears to show that upon a half-press of a shutter button the information that promotes the consciousness effect is emitted. Furthermore, upon a full press the still image is captured. See Figure 9 and paragraphs 0006 and 0015. Such an operation warns a user when a still photograph is being imaged. See paragraph 0004. When used in conjunction with Ito, one of ordinary skill in the art would have found it obvious to emit a light or flash from the device of Ito when a still image is to be captured.

12. As for **claim 7**, Ito discloses that focusing is performed during the photography of the moving image (see paragraph 0010).

13. With regard to **claim 11**, as discussed in claim 1, the combination of Ito and Konno discloses all of the limitations of the parent claim. However, while Konno does disclose the use of a blinking light, Konno fails to disclose that the light is an LED. On the other hand, the benefits of LED lights in the lighting applications are notorious well known. LED's are cheap, last a very long time, and easy to manufacture. Therefore, Official Notice is taken as to the fact that the use of LED's as a light source is well known in the art for the above mentioned reasons. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the light of Konno an LED light.

14. Regarding **claim 13**, Ito discloses that moving image photography is performed as long as the moving image trigger (5) is pressed. See paragraph 0010. Furthermore, Konno discloses that the light that promotes the consciousness effect is activated upon a half press (SW1) of the shutter button. When used in combination, these two references disclose the claimed limitation.

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15. As for *claim 14*, Ito discloses that a still image can be captured using the still image capture button (6) during the capture of a moving image. See paragraph 0011. Furthermore, Konno discloses the capture of a still image upon the full depression (SW2) of the shutter button. When used in combination, these two references disclose the claimed limitation.

16. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (Japanese Publ. No. 05-083625 A) in view of Konno (Japanese Publ. No. 06-175208 A) and further in view of Hayashi et al. (U.S. Patent No. 6,944,345).**

17. Regarding *claim 4*, as mentioned above in the discussion of claim 1, the combination of Ito and Konno discloses all of the limitations of the parent claim. The aforementioned references however, fail to explicitly disclose that the settings related to the photography operation are displayed in a display portion when the release button is pressed half-way down. Hayashi, on the other hand, discloses that it is well known in the art to display focus settings for the capture of a still image when a release button is pressed halfway down. More specifically, Hayashi discloses in column 7, lines 14-30 that upon the half press of a release button (actuation assembly, 313) a focus area is displayed on the monitor (310) in order to inform the user of the focus position. The focus area is interpreted to be a setting related to the photography operation. Therefore, it would have been obvious to one of ordinary skill in the art to enable a half press of the combined release button of Ito and Konno to effect the display of a focus area setting so that the user is informed of the focus area used in the photographing operation.

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18. **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (Japanese Publ. No. 05-083625 A) in view of Konno (Japanese Publ. No. 06-175208 A) and further in view of Iwata et al. (U.S. Patent No. 4,472,042).**

19. Regarding *claim 12*, as mentioned above in the discussion of claim 1, the combination of Ito and Konno disclose all of the limitations of the parent claim. The aforementioned references, however, fails to specifically disclose that the flash lamp of Ito is popped up upon a half press of the shutter button. Iwata, on the other hand, discloses that it is well known in the art to pop up a flash when needed during the capture of a still image upon a half depression of a shutter button. More specifically, Iwata teaches that the flash (15) is raised after a half-depression of the shutter button. Such an operation eliminates the need for the flash to be manually popped up and allows enough time to prepare for photography. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to pop up the flash of Ito upon a half press of the shutter button to prepare for the still image capture.

20. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (Japanese Publ. No. 05-083625 A) in view of Konno (Japanese Publ. No. 06-175208 A) and further in view of Dow et al. (U.S. Publ. No. 2004/0090533).**

21. Regarding *claim 8*, as mentioned above in the discussion of claim 1, the combination of Ito and Konno discloses all of the limitations of the parent claim. The aforementioned references however, fail to explicitly disclose that a focus readjustment operation is performed when the release button is pressed halfway down or a second notifying means for notifying that focus is corrected after the readjustment operation is completed. Dow discloses that it is well known in

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the art to perform a focus readjustment operation in a combined still/moving image camera with the half press of a release button. More specifically, Dow discloses a camera (102) with a still image capture trigger (110). When the still image capture trigger is half pressed a focus operation is carried out (paragraph 0020). Such an operation ensures that a highly focused still image is captured at the time of a still image shutter release. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the combined camera of Ito and Konno to perform a focus readjustment operation with the half press of the release button so that a highly focused still image is captured.

Additionally, the combination of Ito and Konno fails to specifically disclose the use of a second notifying means for notifying that the focus operation is complete. Official Notice is taken as to the fact that it is well known in the art to include a notifying means (i.e. LED indication or display icon) for indicating the image is in-focus. Such an indication provides the user with an indication that focus is complete and that the still image capture can be initiated, thereby preventing the capture of an out of focus image. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second notifying means in the combined camera of Ito, Konno, and Dow to indicate that the focus readjustment operation is complete so that the capture of an out of focus image is prevented.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. VILLECCO whose telephone number is (571)272-7319. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN M. VILLECCO/  
Primary Examiner, Art Unit 2622  
July 9, 2009